

## Office of Personnel Management

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competitive service. These positions shall be listed in OPM's annual report for the fiscal year in which the exceptions are made.

(b) OPM shall decide whether the duties of any particular position are such that it may be filled as an excepted position under the appropriate schedule.

(c) Notice of OPM's decision granting authority to make appointments to an excepted position under the appropriate schedule shall be published in the FEDERAL REGISTER.

[28 FR 10025, Sept. 14, 1963, as amended by E.O. 11315, 3 CFR, 1966-1970 Comp., p. 597; E.O. 12043, 43 FR 9773, Mar. 10, 1978; E.O. 13562, 75 FR 82587, Dec. 30, 2010]

### § 6.2 Schedules of excepted positions.

OPM shall list positions that it excepts from the competitive service in Schedules A, B, C, and D, which schedules shall constitute parts of this rule, as follows:

*Schedule A.* Positions other than those of a confidential or policy-determining character for which it is not practicable to examine shall be listed in Schedule A.

*Schedule B.* Positions other than those of a confidential or policy-determining character for which it is not practicable to hold a competitive examination shall be listed in Schedule B. Appointments to these positions shall be subject to such noncompetitive examination as may be prescribed by OPM.

*Schedule C.* Positions of a confidential or policy-determining character shall be listed in Schedule C.

*Schedule D.* Positions other than those of a confidential or policy-determining character for which the competitive service requirements make impracticable the adequate recruitment of sufficient numbers of students attending qualifying educational institutions or individuals who have recently completed qualifying educational programs. These positions, which are temporarily placed in the excepted service to enable more effective recruitment from all segments of society by using means of recruiting and assessing candidates that diverge from the rules generally applicable to the competitive service, shall be listed in Schedule D.

[E.O. 13562, 75 FR 82587, Dec. 30, 2010]

### § 6.3 Method of filling excepted positions and status of incumbents.

(a) The head of an agency may fill excepted positions by the appointment of persons without civil service eligibility or competitive status and such persons

shall not acquire competitive status by reason of such appointment: *Provided*, That OPM, in its discretion, may by regulation prescribe conditions under which excepted positions may be filled in the same manner as competitive positions are filled and conditions under which persons so appointed may acquire a competitive status in accordance with the Civil Service Rules and Regulations.

(b) To the extent permitted by law and the provisions of this part, appointments and position changes in the excepted service shall be made in accordance with such regulations and practices as the head of the agency concerned finds necessary.

### § 6.4 Removal of incumbents of excepted positions.

Except as may be required by statute, the Civil Service Rules and Regulations shall not apply to removals from positions listed in Schedules A, C, or D or from positions excepted from the competitive service by statute. The Civil Service Rules and Regulations shall apply to removals from positions listed in Schedule B of persons who have competitive status.

[28 FR 10025, Sept. 14, 1963, as amended by E.O. 13562, 75 FR 82587, Dec. 30, 2010]

### § 6.5 Assignment of excepted employees.

No person who is serving under an excepted appointment shall be assigned to the work of a position in the competitive service without prior approval of OPM.

### § 6.6 Revocation of exceptions.

OPM may remove any position from or may revoke in whole or in part any provision of Schedule A, B, C, or D. Notice of OPM's decision making these changes shall be published in the FEDERAL REGISTER.

[E.O. 11315, 3 CFR, 1966-1970 Comp., p. 597, as amended by E.O. 12043, 43 FR 9773, Mar. 10, 1978; E.O. 13562, 75 FR 82587, Dec. 30, 2010]

### § 6.7 Movement of persons between the civil service system and other merit systems.

Whenever OPM and any Federal agency having an established merit

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system determine it to be in the interest of good administration and consistent with the intent of the civil service laws and any other applicable laws, they may enter into an agreement prescribing conditions under which persons may be moved from one system to the other and defining the status and tenure that the persons affected shall acquire upon such movement.

### § 6.8 Specified exceptions.

(a) Positions in the Department of the Interior and in the Department of Commerce whose incumbents serve as the principal representative of the Secretary in their respective regions shall be listed in Schedule C for grades not exceeding grade GS-15 of the General Schedule, and shall be designated Non-career Executive Assignments for positions graded higher than GS-15. Incumbents of these positions who are, on February 15, 1975, in the competitive service shall not be affected by the foregoing provisions of this section.

(b) Positions in the Community Services Administration and ACTION whose incumbents serve as regional director or regional administrator shall be listed in Schedule C for grades not exceeding GS-15 of the General Schedule and shall be designated Noncareer Executive Assignments for positions graded higher than GS-15. Incumbents of these positions who are, on November 29, 1977, in the competitive service shall not be affected by the foregoing provisions of this subsection.

(c) Within the Department of Agriculture, positions in the Agriculture Stabilization and Conservation Service the incumbents of which serve as State Executive Directors and positions in the Farmers Home Administration the incumbents of which serve as State Directors or State Directors-at-Large shall be listed in Schedule C for all grades of the General Schedule.

[E.O. 11839, 40 FR 7351, Feb. 19, 1975, as amended by E.O. 11887, 40 FR 51411, Nov. 5, 1975; E.O. 12021, 42 FR 61237, Dec. 2, 1977; 47 FR 4227, Jan. 29, 1982]

## 5 CFR Ch. I (1-1-12 Edition)

### PART 7—GENERAL PROVISIONS (RULE VII)

Sec.

7.1 Discretion in filling vacancies.

7.2 Reemployment rights.

7.3 Citizenship.

AUTHORITY: 5 U.S.C. 3301, 3302.

SOURCE: 28 FR 10025, Sept. 14, 1963, unless otherwise noted.

#### § 7.1 Discretion in filling vacancies.

In his discretion, an appointing officer may fill any position in the competitive service either by competitive appointment from a civil service register or by noncompetitive selection of a present or former Federal employee, in accordance with the Civil Service Regulations. He shall exercise his discretion in all personnel actions solely on the basis of merit and fitness and without regard to political or religious affiliations, marital status, or race.

#### § 7.2 Reemployment rights.

OPM, whenever it determines it to be necessary, shall prescribe regulations governing the release of employees (both within the competitive service and the excepted service) by any agency in the executive branch of the Government for employment in any other agency, and governing the establishment, granting, and exercise of rights to reemployment in the agencies from which employees are released.

[28 FR 10025, Sept. 14, 1963. Redesignated by E.O. 13197, 66 FR 7853, Jan. 25, 2001]

#### § 7.3 Citizenship.

(a) No person shall be admitted to competitive examination unless such person is a citizen or national of the United States.

(b) No person shall be given any appointment in the competitive service unless such person is a citizen or national of the United States.

(c) OPM may, as an exception to this rule and to the extent permitted by law, authorize the appointment of aliens to positions in the competitive service when necessary to promote the efficiency of the service in specific cases or for temporary appointments.

[E.O. 11935, 41 FR 37301, Sept. 3, 1976. Redesignated by E.O. 13197, 66 FR 7853, Jan. 25, 2001]